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Standards of American Legislation. An Estimate of Restrictive and Constructive Factors. By ERNST FREUND. (Chicago: The University of Chicago Press. 1917. Pp. xx, 327. \$1.50.)

This book is the outgrowth of a series of lectures delivered at Johns Hopkins University in 1915. Its purpose is to suggest a system of positive principles to guide and control the making of statutes. The work is rather technical, presupposing a considerable knowledge of law and legal phraseology, yet it can be read with considerable profit by economists.

Chapter I, *Historic Changes of Policy and the Modern Concept of Social Legislation*, will perhaps prove the most interesting to economists. In this chapter the author analyzes the drift of modern legislative thought and its significance. He first shows the process whereby free and equal personal status has gradually been established. Through the abolition of slavery and serfdom, the removal of legal class distinctions, the recognition of the legal rights of aliens, and the emancipation of wives from domestic subjection, liberty and equality have received practically universal recognition. The main exceptions are the treatment of the colored race and children. The disability of the child is of course inevitable, but the rights of parents are more and more assuming the character of a trust. Legislation to punish cruelty to children and to establish a system of public care of juvenile dependents is liberating children from the abuse of domestic power, and thus represents a distinct triumph for the doctrine of human personality. The author next traces the development of the doctrine of freedom of thought. Until far into the seventeenth century it had been a commonplace of public policy that opinion must be controlled in order to insure the safety of the state. But gradually religious liberty has been established throughout the civilized world, and the free expression of opinion on all matters, but especially on political topics, safeguarded. The present war is, of course, leading to the reestablishment of the control of public opinion by the state, but submission thereto is regarded as "one of the most remarkable achievements of democracy and of education in public affairs."

The establishment of the foregoing rights of personality and of freedom of thought have been effected in the main by the mere removal of legal and other restraints; the movements toward the repression of unthrift and dissipation, the protection of public health and safety, and social legislation have, on the other hand,

involved an extension of the field of legislative activity and control.

It is interesting to observe that the activity of the state against the three leading forms of unthrift—drink, gambling, and vice—has reached its highest development in American democracy. Absolute prohibition, a radical interference with personal liberty, is being widely adopted; gambling, particularly where it takes the form of lotteries, is generally prohibited; and by means of “white slave” legislation a determined attempt is being made to suppress prostitution. The standards of this “moral” legislation are higher, it is true, than the standards of enforcement; yet the insistence upon high abstract moral ideals has a valuable educative influence.

Legislation to protect health and safety is being enacted in increasing quantity. This legislation has been necessitated by the utilization of the newly invented mechanical devices in the service of industry and by the marked progress of science in discovering the causes of diseases and their remedies. Though we live under free institutions, we submit to public regulation and control in ways that, according to the author, would appear inconceivable to the spirit of oriental despotism.

The legislative policies already described show two main tendencies: an increased appreciation of the value of individual human personality; and the adoption of the welfare of the mass of the people as the controlling consideration, rather than the security of the state and the established order. Both these tendencies are combined in the modern movement toward social legislation, a term referring to “those measures which are intended for the relief and elevation of the less favored classes of the community.” Though systematic relief has been given in England since 1601, yet the term “social legislation” was hardly used in connection with reform movements until recent years. This is because social legislation represents a new departure in legislative policy. Whereas the old relief was not connected with industry, and stigmatized the recipient, the new compensation systems (a phase of social legislation) carry no stigma or disability, but seem rather to be a partial compensation for injustice suffered. In enacting this social legislation the state so far has not departed markedly from its attitude of neutrality in the struggle between capital and labor, but the development of a new social conscience and of the

demand for increased state control points to the adoption of a new policy in this respect.

In the remaining chapters of the book—their importance is much greater than the proportion of space devoted to them in this review—the author shows why the common law has not met the modern social needs (ch. 2); how modern welfare legislation has endeavored to give effect to the altered concepts of right and wrong and of the public good, and what the nature of its task is (ch. 3); how the advance of legislation to new fields of control has been checked by constitutional provisions (ch. 4); how the existence and extension of the right of the courts to declare laws unconstitutional has retarded legislative progress (ch. 5); what are some of the fundamental principles to be observed in the enactment of legislation (ch. 6); and the extent to which courts, legislative practice, and jurisprudence are constructive factors (ch. 7).

The book is of a high order. The treatment is scientific, the mode of presentation illuminating, and the style excellent. It more than fulfills the author's modest wish to make some "slight contribution to the rapidly growing movement for the improvement of our statute law." This is particularly true since the author is imbued with the social point of view, a point of view which bids fair to exert an increasing influence on legislation.

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